

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

BREAKWATER TREATMENT AND  
WELLNESS CORP.,

Plaintiff,

v.

THE CITY OF ASBURY PARK, *et al.*,

Defendants.

Civil Action No. 23-3661 (MAS) (JBD)

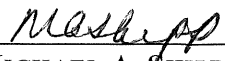
**ORDER**

This matter comes before the Court on two separate motions to dismiss Plaintiff Breakwater Treatment and Wellness Corporation's ("Plaintiff") Complaint (ECF No. 1.) The first motion is by Defendants Christopher Avallone, Wendi Glassman, Daniel Harris, Russell Lewis, Jill Potter, John Scully, and the Asbury Park Zoning Board of Adjustment (ECF No. 15) and the second is by Defendants Michele Alonso, John Moor, and the City of Asbury Park (ECF No. 17) (collectively, "Defendants"). Plaintiff opposed (ECF No. 21), and Defendants replied, respectively (ECF Nos. 26, 27). For the reasons outlined in the Court's Memorandum Opinion,

**IT IS** on this 10<sup>th</sup> day of April 2024, **ORDERED** that:

1. Defendants' motions to dismiss (ECF Nos. 15, 17) are **GRANTED**.
2. Plaintiff's due process claim under the Fifth Amendment is **DISMISSED WITH PREJUDICE**.
3. Plaintiff's substantive due process and equal protection claims under the Fourteenth Amendment are **DISMISSED WITHOUT PREJUDICE**.
4. Plaintiff's § 1985 claim is **DISMISSED WITHOUT PREJUDICE**.

5. Plaintiff is granted 30 days from the filing of this Order on the docket to file an Amended Complaint.

  
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**MICHAEL A. SHIPP**  
**UNITED STATES DISTRICT JUDGE**